

REMARKS

In an Office Action mailed on September 23, 2003, claim 20 was rejected under 35 U.S.C. § 102(e) as being anticipated by Peyer; claims 1-3, 5-7, 9-14, 16-19 and 21-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Judson and Peyer; claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Judson and Peyer; and claims 8, 15 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Judson, Peyer and Lindblad. These rejections are addressed below.

§ 102(e) Rejection of Claim 20:

The Examiner maintains the § 102(e) rejection of claim 20 in view of Peyer. However, the Examiner fails to show where Peyer allegedly teaches instructions to cause a system to generate an interface in a browser (wherein the interface is created by a scripted markup language file) and present multimedia data in the browser. Instead, Peyer clearly teaches a browser instance to display a multimedia presentation and *another* browser instance that provides a user interface. See, for example, Figure 4 of Peyer that shows the user interface 152 and a live television window 154, each of which is implemented as a separate browser instance. Peyer, 6:37-39.

Thus, because Peyer fails to teach all limitations of independent claim 20, Peyer fails to anticipate this claim. Applicant fails to appreciate how the language in lines 17-65 in column 5 of Peyer is relevant to the Examiner's rebuttal of the arguments made in the last reply. Clarification of this point is requested from the Examiner. Therefore, withdrawal of the § 102 rejection of claim 20 is requested.

Rejections of Claims 1-9:

Claim 1 recites a browser having a user interface to display a presentation of multimedia data. As set forth above, Peyer teaches separate browser instances to display multimedia data and a user interface. In this regard, Peyer does not teach or even suggest that the user interface displays multimedia data. Rather, Peyer teaches away from such an arrangement, in that Peyer teaches separate browser instances for each of these functions. See, for example, Peyer, 6:6-35. As acknowledged by the Examiner, Judson fails to teach a script handler that is executable to

process multimedia data. Thus, neither reference cited by the Examiner teaches or suggests a script handler executable to process multimedia data received from a source for presentation to a browser user interface. To the contrary, Peyer teaches away from this arrangement, and the proposed modification to Peyer would improperly destroy the principal of operation of Peyer's system. *See*, M.P.E.P. § 2145.X.D.2.

Furthermore, although the Examiner acknowledges that the Federal Circuit states that *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988), a suggestion or motivation must exist in the art, the Examiner still fails to show where the prior art contains the alleged suggestion or motivation. It is noted that in *In re Fine*, the Examiner's rejection was overturned for not showing where the prior art contained the alleged suggestion or motivation for the combination. Thus, the Examiner must specifically point out where the prior art contains the alleged suggestion or motivation for the combination and/or modification of references. *Ex parte Gambogi*, 62 USPQ2d 1209, 1212 (Bd. Pat. App. & Int. 2001); *In re Rijckaert*, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); M.P.E.P. § 2143.

Thus, for at least any one of these reasons, the Examiner fails to establish a *prima facie* case of obviousness for independent claim 1. Claims 2-9 are patentable for at least the reason that these claims depend from an allowable claim.

Rejections of Claims 10 and 11:

The Examiner fails to establish a *prima facie* case of obviousness for independent claim 10 for at least the reason that neither reference teaches or suggests a user interface to display a presentation of audio/video data. As set forth above, Peyer teaches away from such an arrangement, and the modification proposed by the Examiner would improperly destroy the principal of operation of Peyer's system. Furthermore, the Examiner fails to specifically show where the prior art contains the alleged suggestion or motivation to combine Peyer and Judson. Thus, for at least any one of these reasons, a *prima facie* case of obviousness has not been established for independent claim 10.

Claim 11 is patentable for at least the reason that this claim depends from an allowable claim.

Rejections of Claims 12-15:

The method of claim 12 includes recites invoking the script handler to create a user interface and a browser and displaying a presentation of multimedia data in the browser. As set forth above, Peyer teaches creating separate browser instances to display a user interface and multimedia data. Thus, Peyer teaches away from the claimed invention, and the proposed modification by the Examiner would improperly change the principal of operation of Peyer's system. Furthermore, the Examiner fails to specifically show where the prior art contains the alleged suggestion or motivation to modify Peyer and combine Judson and Peyer. Therefore, for at least any one of these reasons, a *prima facie* case of obviousness has not been set forth for independent claim 12.

Claims 13-15 are patentable for at least the reason that these claims depend from an allowable claim.

Rejections of Claims 16-19:

The method of claim 16 includes both displaying information associated with multimedia data in a browser interface and displaying a presentation of multimedia data in the browser interface.

Contrary to the limitations of independent claim 16, Peyer teaches two different browser instances that are created for purposes of displaying data associated with a television display and information regarding this display. Thus, Peyer teaches away from the claimed invention, and the modification of Peyer proposed by the Examiner's rejection of claim 16 would improperly change the principal of operation of Peyer's system. Furthermore, the Examiner fails to show where the prior art contains the alleged suggestion or motivation to modify Peyer, as set forth by the Examiner's rejection of independent claim 16. Therefore, for at least any one of these reasons, a *prima facie* case of obviousness has not been established for independent claim 16.

Claims 17-19 are patentable for at least the reason that these claims depend from an allowable claim.

Rejections of Claims 21-29:

The system of claim 21 includes a browser having a user interface and a markup language file that is associated with a script handler that is executable to process multimedia to receive from a source for presentation to the browser user interface.

As discussed above, Peyer teaches a user interface that is displayed in a separate browser instance than a multimedia presentation. Therefore, for at least this reason, Peyer fails to teach the limitations of claim 21 relied on by the Examiner. Furthermore, modifying Peyer in view of Judson so that the user interface of Peyer displays a multimedia presentation would improperly change the principal of operation of Peyer's system. Additionally, Peyer teaches away from such a modification. Furthermore, the Examiner fails to specifically show where the prior art contains the alleged suggestion or motivation to modify Peyer to derive the claimed invention. Thus, for at least any one of these reasons, the Examiner fails to establish a *prima facie* case of obviousness for independent claim 21.

Claims 22-29 are patentable for at least the reason that these claims depend from an allowable claim.

Rejections of Claims 30 and 31:

The system of claim includes a browser having a user interface and a file associated with predetermined instructions. The file is loadable by the browser and the instructions are executable to display information associated with audio/video data in a source.

Contrary to the limitations of independent claim 30, Peyer teaches away from a file that is loadable by a browser (that has a user interface) so that instructions of the file may be executed to display information that is associated with audio/video data in a source. In contrary, Peyer teaches separate browser instances to display a user interface and audio/video data. Thus, the modification proposed by the Examiner's rejection is improper, as this rejection changes the principal of operation of Peyer's system, and is further improper for at least the additional, independent reason that Peyer teaches away from such a modification. Additionally, the Examiner fails to specifically show where the prior art allegedly contains the suggestion or motivation to modify Peyer, as set forth by the Examiner's rejection of independent claim 30.

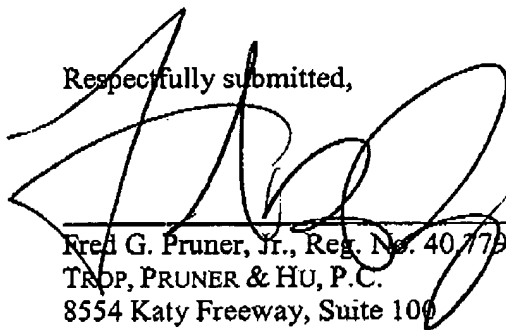
Thus, for at least any one of these reasons, a *prima facie* case of obviousness has not been established for independent claim 30.

Claim 31 is patentable for at least the reason that this claim depend from an allowable claim.

CONCLUSION

In view of the foregoing, withdrawal of the §§ 102 and 103 rejections and a favorable action in the form of a Notice of Allowance are requested. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504 (ITL.0215US).

Respectfully submitted,



Fred G. Pruner, Jr., Reg. No. 40,779
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, Texas 77024
(713) 468-8880 [Phone]
(713) 468-8883 [Fax]

Date: October 23, 2003

**RECEIVED
CENTRAL FAX CENTER**

OCT 23 2003

OFFICIAL